

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

<i>MICHAEL POSTAWKO, et al.,</i>)	
)	CASE NO. 2:16-CV-04219-NKL
Plaintiffs,)	
)	
v.)	
)	
<i>MISSOURI DEPARTMENT OF</i>)	
<i>CORRECTIONS, et al.,</i>)	
)	
Defendants.)	

**THE STATE’S REPLY SUGGESTIONS IN SUPPORT OF ITS
MOTION FOR TESTIMONY VIA VIDEOCONFERENCE**

Defendants Missouri Department of Corrections (“MDOC”), Anne L. Precythe (“Precythe”), and Corizon, LLC (“Corizon,” and, collectively with MDOC and Precythe, the “State”) hereby submit this Reply in Support of Its Motion for Testimony via Videoconference.

Plaintiffs filed their Motion for Preliminary Injunction months before the deadlines for expert disclosures and reports under this Court’s Scheduling Order. In order to defend against Plaintiffs’ Motion, the State marshaled expert testimony in a heavily truncated period. One of the State’s experts is unavailable to travel from Los Angeles, California, to testify in person because of pre-existing obligations. Plaintiffs now attempt to prevent the State from presenting this expert’s testimony by video. Plaintiffs’ objections to the video testimony are not well-taken, and the Court should permit Dr. Koretz to testify by video.

First, Plaintiffs claim that “[c]ross-examination of this particular witness by videoconference would be a hardship.” (Doc. No. 330 at 1). According to Plaintiffs, “[c]onducting a cross-examination that relies heavily on documentary materials by video feed is not effective.” (Id.). The State, however, offered to provide Plaintiffs’ cross-examination materials to Dr. Koretz, at the State’s expense, to minimize any burden on Plaintiffs. If Plaintiffs are not satisfied with this

proposal, they may propose an alternative method to provide the documents to Dr. Koretz.

Second, Plaintiffs suggest that Dr. Koretz's testimony is "not necessary" because the State "previously disclosed nineteen witnesses who might provide some form of expert testimony." (Doc. No. 330 at 2). As Plaintiffs are aware, fifteen of those individuals are Corizon personnel who provided treatment to named plaintiffs and/or class members. The State disclosed their names in an abundance of caution. Dr. Koretz's testimony is not duplicative of the treating physicians. Additionally, Dr. Koretz's testimony is not duplicative of Dr. Dranoff's or Dr. Mendel's testimony.

Dr. Dranoff will provide testimony regarding medical care for hepatitis C. Dr. Mendel will provide testimony regarding medical care in a correctional setting. Dr. Koretz will provide testimony directly refuting Plaintiffs' experts' assertions that DAA therapy represents a "cure" for HCV and that the "HCV Guidance" promulgated by the American Association for the Study of Liver Diseases and the Infectious Disease Society of America constitutes an evidence-based standard. Each of the State's expert witnesses has a distinct area for testimony.

Finally, Plaintiffs question the legitimacy of Dr. Koretz's conflict, simply because he is "retired." (Doc. No. 330 at 2). Dr. Koretz has long-standing personal obligations that require his presence in California through the evening of August 15. Given the practicalities of long-distance travel, Dr. Koretz cannot be in Jefferson City, Missouri, the morning of August 16 to testify in person.

The State respectfully requests that the Court grant its motion and permit Dr. Koretz to testify via videoconference.

Dated: August 8, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon all attorneys of record in this matter, including without limitation the following, by the Court's CM/ECF system on August 8, 2019:

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